

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:22-CV-2-BO

SON BOYD,

*Plaintiff,*

v.

PEGGY MATHEWSON WILSON,

*Defendant.*

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ORDER

This cause comes before the Court on the memorandum and recommendation of Magistrate Judge Robert T. Numbers [DE 5], plaintiff's second motion for an injunction [DE 7], and what the Court construes as a third motion for an injunction [DE 8].

A district court is required to review *de novo* those portions of a memorandum and recommendation (M&R) to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). “[I]n the absence of a timely filed objection, a district court need not conduct de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted). Plaintiff has not objected to the M&R and the time for doing so has passed.

The Court has reviewed the M&R and is satisfied that there is no clear error on the face of the record. Judge Numbers recommended that this action be dismissed without prejudice unless plaintiff tendered the filing fee or applied to proceed in forma pauperis, filed proposed summons, and signed his motion for an injunction. On February 25, 2022, plaintiff tendered the filing fee. Plaintiff also re-filed motions for an injunction. Even liberally construing the newly-filed motions

as signed pleadings, plaintiff has failed to file summons within the appropriate time period. “Absent waiver or consent, a failure to obtain proper service on the defendant deprives the court of personal jurisdiction over the defendant.” *Koehler v. Dodwell*, 152 F.3d 304, 306 (4th Cir. 1998). Federal Rule of Civil Procedure 4(m) provides that if a defendant is not served within 90 days of the filing of the complaint, the Court on motion or on its own after providing notice to the plaintiff “must dismiss the action without prejudice against the defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Plaintiff has not complied with Rule 4(m) nor not shown good cause in any of his subsequent filings. Accordingly, plaintiff has not cured the defects listed in the M&R.

Accordingly, the M&R [DE 5] is ADOPTED. Plaintiff’s motions [DE 1, 7, 8] are DENIED. This action is DISMISSED WITHOUT PREJUDICE.

SO ORDERED, this 18 day of August, 2022.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE